

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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U.S. SECURITIES AND EXCHANGE	:	
COMMISSION,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	Civil Action No. 19-cv-5244 (AKH)
	:	
KIK INTERACTIVE INC.,	:	
	:	
Defendant.	:	
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**DEFENDANT KIK INTERACTIVE, INC.'S NOTICE OF MOTION AND MOTION FOR
SUMMARY JUDGMENT**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that pursuant to Rule 56 of the Federal Rules of Civil Procedure, Defendant Kik Interactive, Inc. (“Kik”), through its undersigned counsel, respectfully moves the Court before the Honorable Alvin K. Hellerstein, for an order granting summary judgment for Kik on all asserted claims.

This Motion is based on this Notice of Motion and Motion, the Memorandum of Law, the Local Rule 56.1 Statement of Material Facts, the Declaration of Michael E. Welsh and exhibits attached thereto, all filed concurrently herewith, as well as all cited pleadings in this action, any matter of which the Court may take judicial notice, and any argument as the Court may consider hearing on this Motion. In accordance with the individual rules of this Court, Kik has included below, a table of contents listing documents, declarations, and exhibits submitted in support of this motion.

Dated: March 20, 2020

Respectfully submitted,

By: /s/ Patrick E. Gibbs

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**LIST OF DOCUMENTS FILED IN SUPPORT OF
THE INSTANT NOTICE OF MOTION AND MOTION**

1. Memorandum of Law;
2. Local Rule 56.1 Statement of Material Facts;
3. Declaration of Michael E. Welsh with the following exhibits:

<u>Exhibit</u>	<u>Document Description</u>
A.	Declaration of Tanner Philp
B.	Excerpts of the investigative testimony transcripts of Peter Heinke, dated September 20 and September 21, 2018.
C.	Excerpts of the investigative testimony transcripts of Tanner Philp, dated August 20 and August 21, 2018.
D.	Excerpts of the investigative testimony transcripts of Ted Livingston, dated November 11 and November 12, 2018.
E.	The Simple Agreement for Future Tokens. Produced at bates KIK000066.
F.	Private Placement Offering Memorandum. Produced at bates KIK000037.
G.	Form D filed by Kik Interactive Inc. with the U.S. Securities and Exchange Commission. Produced at bates KIK000073.
H.	The TDE Terms of Use. Produced at bates KIK000079.
I.	Kin Frequently Asked Questions. Produced at bates KIK000029.
J.	Kin User Registration Guide. Produced at bates KIK000098.
K.	Kin Whitepaper. Produced at bates KIK000001.
L.	Article titled "Announcing Kin, a Cryptocurrency for an Open Future," dated May 25, 2017, marked as Investigative Testimony Exhibit 200.
M.	Press Release, dated May 25, 2017, marked as Investigative Testimony Exhibit 3.
N.	Article titled "Why I am Telling my Friends and Family That They Should Participate in the Kin TDE," dated September 6, 2017. Produced at bates KIK_00045122.
O.	Article titled "Kin TDE: If You Want to Participate, You *Must* Register by September 9, 9:00 a.m. ET." Produced at bates KIK_00045080.

<u>Exhibit</u>	<u>Document Description</u>
P.	Article titled “Kin token distribution event starts today,” dated September 12, 2017, marked as Investigative Testimony Exhibit 94.
Q.	Blog post titled “ThirdEyeSunglasses.com Will Now Accept Kin Coin,” dated January 2, 2018, publicly available at https://www.thirdeyesunglasses.205com/blogs/third-eye-sunglasses/thirdeyesunglasses-com-will-now-accept-kin-coin
R.	Current statistics of Kin transactions within the certain applications, publicly available at https://www.kin.org/stats/
S.	Webpage listing applications that have integrated Kin, publicly available at https://www.kin.org/kin-apps
T.	KinFit webpage, publicly available at https://www.mykinfit.com/ .
U.	Webpage describing Love & Loud app, publicly available at https://play.google.com/store/apps/details?id=com.lnradio&hl=en_US
V.	Current blockchain utilization statistics for cryptocurrency projects, publicly available at https://blocktivity.info/ .
W.	Twitter message published by Kin Foundation, dated September 13, 2017. Produced at bates KIK_00006213.
X.	Article titled “The Kin Revolution, in Kik CEO’ Ted Livingston’s Own Words, dated June 8, 2017, publicly available at https://news.communittech.ca/the-revolution-of-kin-in-kik-ceo-ted-livingstons-own-words/ .
Y.	Press release, dated September 26, 2017, marked as Deposition Exhibit 61.

CERTIFICATE OF SERVICE

I, Patrick E. Gibbs, hereby certify that a true and correct copy of the foregoing document was served on counsel of record via ECF on this 20th day of March, 2020.

/s/ Patrick E. Gibbs
Patrick E. Gibbs